



Billing Code: 4510-FW-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice Requesting Public Comment on the Proposed Methodology to Distribute Outcome Payments to States for the Unemployment Insurance (UI) Reemployment Services and Eligibility Assessments (RESEA) Program in accordance with Title III, Section 306(f)(2) of the Social Security Act (SSA)

AGENCY: Employment and Training Administration (ETA), U.S. Department of Labor (Department).

ACTION: Request for public comment.

SUMMARY: The Department is seeking public comment on the proposed methodology to distribute RESEA outcome payments to states each fiscal year (FY) after FY 2020 as required by Section 306(f)(2), SSA.

DATES: Submit written comments to the office listed in the addresses section below on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Questions on this notice and responsive comments related to the RESEA outcome payments allocation can be submitted to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue, NW, Room S-4524, Washington, D.C. 20210, Attention: Lawrence Burns, or by email at DOL-ETA-UI-FRN@dol.gov.

FOR FURTHER INFORMATION CONTACT: Lawrence Burns, Division of Unemployment Insurance Operations, at 202 693-3141 (this is not a toll-free number), TTY 1-

877-889-5627 (this is not a toll-free number), or by email at Burns.Lawrence@dol.gov. The Department will respond to comments directly as necessary.

SUPPLEMENTARY INFORMATION: ETA proposes a three-step approach to determine whether a state is eligible for RESEA Outcome Payments. The proposed approach reflects RESEA’s statutory purpose, as defined in Section 306(b)(1), SSA, to improve employment outcomes of individuals that receive unemployment compensation (UC) and to reduce the average duration of receipt of such compensation through employment. The three-step approach includes:

1. Evaluation of state reemployment performance using the RESEA program to determine if a state met or exceeded the target for the Reemployment Rate in the 2nd Quarter After Program Exit for RESEA participants performance measure;
2. Evaluation of the state’s Average UI duration to determine if the state demonstrated a decrease in its average UI duration as a result of the RESEA services provided to UI claimants; and
3. Award allocation.

I. Introduction

The federal-state UI program is a required partner in the comprehensive, integrated workforce system. Individuals who have lost employment through no fault of their own and have earned sufficient wage credits, may receive UI benefits if they meet initial and continuing eligibility requirements. Beginning in 2005, the Department and participating state workforce agencies have been addressing the individual reemployment needs of UI claimants and working to prevent and detect UI improper payments through the voluntary UI Reemployment and

Eligibility Assessment (REA) program. Beginning in FY 2015, the voluntary RESEA program replaced the REA program. On February 9, 2018, the President signed the Bipartisan Budget Act of 2018 (Public Law No. 115-123) (BBA), which included amendments to the SSA creating a permanent authorization for the RESEA program. In FY 2019, a total of 50 states and jurisdictions operated a RESEA program.

The primary goals for the RESEA program are to: improve employment outcomes for individuals that receive UC and to reduce average duration of receipt of UC through employment; strengthen program integrity and reduce improper payments; promote alignment with the broader vision of the Workforce Innovation and Opportunity Act (WIOA)—increasing program integration and service delivery for job seekers; and establish RESEA as an entry point to other workforce system partner programs for individuals receiving UC.

II. Background

The RESEA provisions are contained in Section 30206 of the BBA, enacting Section 306 of the SSA. In addition to program requirements, Section 306 of the SSA also contains provisions for the funding of the RESEA program. The law specifies three uses and designates the proportion of annual appropriations to be assigned to these uses: 1) base funding for states to operate the RESEA program (84 percent to 89 percent depending on the year); 2) outcome payments designed to reward states meeting or exceeding certain criteria (10 percent to 15 percent of the appropriation depending on the year); and 3) up to one percent for the Secretary of Labor to use for research and technical assistance to states. Additionally, the law requires the Department to develop a methodology to allocate and distribute base funding and outcome payments to states beginning in FY 2021.

In August 2019, ETA published a Notice in the *Federal Register* to inform states of the

methodology to allocate base funding to states for the RESEA program. Details regarding the RESEA base formula allocation methodology can be found at: <https://www.federalregister.gov/documents/2019/08/08/2019-16988/allocating-grants-to-states-for-reemployment-services-and-eligibility-assessments-resea-in>. The present Notice proposes the methodology to distribute RESEA outcome payments to states.

Section 306(f)(2)(A), SSA requires ETA to make “outcome payments” to states that meet or exceed the outcome goals for reducing the average duration of receipt of UC by improving employment outcomes. The law specifically states:

“IN GENERAL.—Of the amounts made available for grants under this section for each fiscal year after 2020, the Secretary shall reserve a percentage equal to the outcome reservation percentage¹ for such fiscal year for outcome payments to increase the amount otherwise awarded to a State under paragraph (1). Such outcome payments shall be paid to States conducting reemployment services and eligibility assessments under this section that, during the previous fiscal year, met or exceeded the outcome goals provided in subsection (b)(1) related to reducing the average duration of receipt of unemployment compensation by improving employment outcomes”.

III. Proposed Methodology To Determine States Eligible For Outcome Payments

ETA is proposing a three-step approach to identify eligible states for the outcome payments. To assess RESEA program performance related to employment outcomes, ETA will use the four-quarter period ending September 30. While this proposed assessment period for the outcome payments differs from the RESEA program performance year (January to December), it aligns with statutory requirements under WIOA and provides for the necessary time for data

¹ Section 306(f)(2)(B), SSA defines the “outcome reservation percentage” as 10 percent for fiscal years 2021 through 2026 and 15 percent for fiscal years thereafter.

collection, reporting, and analysis.

Step 1: RESEA Reemployment Measure

To be considered eligible for receiving an outcome payment, a state must first meet or exceed its target for the Reemployment Rate in the 2nd Quarter After Program Exit. Data for this measure is collected through the Participant Individual Record Layout (PIRL) (ETA 9172). The PIRL framework allows states to organize data in a standardized format within the Workforce Integrated Performance System (WIPS) using various elements or data points. Additional information on the PIRL elements can be found in the DOL-only PIRL at the following link: <https://www.doleta.gov/performance/reporting/>

Further details on the methodology of this measure are outlined in the Notice published by ETA in the *Federal Register* in May 2019 (84 Fed. Reg. 24, 819).

ETA will initially measure reemployment performance by adopting established targets based on the negotiated levels of performance for the Wagner-Peyser program participants. These performance targets are generated by the WIOA Statistical Adjustment Model required under Sec. 116(b)(3)(viii), of WIOA. The Department established this Statistical Adjustment Model as an objective statistical regression model to adjust individual state negotiated levels of performance using actual economic conditions and the characteristics of participants served at the end of the performance period. The model will be updated and refined with ongoing use and application as additional quarters of WIOA outcome data become available. More detailed information on the Statistical Adjustment Model is available at the Department website: https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3430.

ETA will announce the negotiated targets applicable to the performance period using a separate guidance. States that do not meet or exceed the criteria for this measure will be

eliminated from the outcome payment pool and will not proceed to the next step of performance outcome analysis

ETA will also continue to review and baseline RESEA data submitted by states. As data quality and reporting of the RESEA program improves, ETA will create a new statistical adjustment model that will enable the development of more refined performance targets to measure reemployment outcomes for RESEA participants only. These performance targets that are more tailored to the RESEA program will then replace the established targets based on the negotiated levels of performance for the Wagner-Peyser program participants.

Step 2: UI Duration

States that meet or exceed the target established for the RESEA Reemployment Measure (Step 1) must also demonstrate reduced average UI duration. Average UI duration is defined as “The number of weeks compensated for the year divided by the number of first payments in the year.”² The performance period used to evaluate UI duration will be the same four-quarter period ending September 30 as the reemployment measure, and will be computed using data reported by states on the ETA 5159 Report.

Because UI duration can be impacted by factors such as changes in the economy or state laws, it is necessary to use a regression model to achieve consistency across states. Therefore, ETA has developed a regression model to estimate a state’s average duration that incorporates state-specific explanatory variables. The following variables allow the model to develop state estimates for UI duration that are unique to a state based on its localized economic conditions:

- Total Unemployment Rate—the number of unemployed people as a percentage of the

² https://oui.doleta.gov/unemploy/content/data_stats/datasum99/4thqtr/gloss.asp

labor force;³

- Potential Duration of UI benefits—the number of full weeks of benefits for which a claimant is eligible within a benefit year;⁴
- UI Exhaustion Rate—the average monthly exhaustions divided by the average monthly first payments;⁵
- Average state weekly benefit amount payment—the total amount of benefits paid divided by the total number of weeks compensated;⁶ and
- Year-to-year change in payroll employment (nonfarm payroll)—the total number of persons on establishment payrolls employed full or part time who received pay for any part of the pay period which includes the 12th day of the month.⁷

The regression model generates the estimated average UI duration for each state and compares it to each state's actual average UI duration. If a state's actual average UI duration is lower than the state's estimated average UI duration provided by the regression model, the state will have demonstrated a reduction in UI duration. A state that does not demonstrate a reduction in UI duration as described above will be eliminated from the outcome payment pool. The regression model will be updated each year to incorporate changing state conditions.

Step 3: Award Allocation

Once the pool of eligible states is identified after completing Steps 1 and 2, ETA will distribute the funds reserved for outcome payments. The same methodology used to calculate RESEA base funding, as outlined in the Notice in the *Federal Register* announcing the RESEA

³ https://www.bls.gov/cps/cps_htgm.htm#definitions

⁴ https://wdr.doleta.gov/directives/attach/ETAH/ETHand401_5th.pdf, page I-2-24, Section 2(B)(a).

⁵ https://oui.doleta.gov/unemploy/content/data_stats/datasum99/4thqtr/gloss.asp

⁶ https://wdr.doleta.gov/directives/attach/ETAH/ETHand401_5th.pdf, page I-6-59, Section 2(B)(a)(1)

⁷ <https://www.bls.gov/bls/glossary.htm#P>

base allocation formula (84 FR 39018), will be applied to calculate the amounts to distribute as outcome payments to eligible states. The base allocation formula uses two primary input variables:

- State Average Insured Unemployment Rate—the number of unemployed persons as a percent of the labor force (employed and unemployed persons);⁸ and
- Civilian Labor Force—all people age 16 and older who are classified as employed or unemployed. In other words, the labor force level is the number of people who are either working or actively looking for work.⁹

By adopting the base formula allocation, outcome payments will be proportional to the size of the RESEA program operated in each awarded state.

IV. Outcome Payments Distribution Timeline

Section 306(f)(2)(A), of the SSA, requires the Department to make outcome payments based on RESEA outcomes reported for the previous fiscal year starting in FY 2020. There are several timing issues associated with calculation of the performance to enable the outcome payments. First, the period of performance for RESEA is January 1 through December 31. The reemployment outcomes data has a four-quarter lag (three quarters for reemployment outcomes to be available, and one quarter for state reporting). In order to allow time for necessary data collection and analysis, the distribution of funds will occur in December of the FY following the year in which the RESEA grant funds are awarded. For example, the outcome payments for FY 2020 will be made to states by December 31, 2021 (note that the UI and RESEA programs have five quarters to distribute funding in any fiscal year). The following schedule applies to the 2020 performance period:

⁸<https://www.bls.gov/cps/uiclaims.htm>

⁹ <https://www.bls.gov/cps/definitions.htm#laborforce>

- Data for performance period October 2019 through September 2020 is available for ETA review in November 2021;
- Once performance data is available, the pool of eligible states will be determined using the methodology outlined in Section III above; and
- Outcome payments will be distributed no later than December 2021.

Questions or comments concerning the proposed methodology for RESEA outcome payments must be submitted using the instructions set out in the ADDRESSES section above. Submitted comments will be a matter of public record and can posted on the Internet, without redaction. The Department encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments. It is the responsibility of the commenter to determine what is personal or confidential business information.

Signed in Washington, D.C.

John Pallasch,
Assistant Secretary for Employment and Training.
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